



DEFILE55.1C2CD1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant	:	Moser, et al.
Appl. No.	:	10/072425
Filed	:	February 7, 2002
For	:	DENDRITIC-LIKE CELL/TUMOR CELL HYBRIDS AND HYBRIDOMAS FOR INDUCING AN ANTI-TUMOR RESPONSE
Examiner	:	Ewoldt, Gerald R.
Group Art Unit	:	1644

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF AND REQUEST FOR
ENTRY OF ATTACHMENTS D, F, AND G OF EVIDENCE APPENDIX**

Appeal Brief-Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Notice of non-compliant Appeal Brief mailed October 5, 2006.

Remarks/Arguments begin on page 2 of this paper.

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REMARKS

The Notice of non-compliant Appeal Brief states that Attachments D, F, and G are not of record and must be submitted separately at which time a determination will be made as to whether or not the documents will be entered and considered on Appeal.

Attachments D, F, and G all relate to a discussion of the two Abstracts by Peters (Peters 1980 & Peters 1981).

In the Final rejection of claims 1, 5, 6, 7, 9, 10, 11, 16, 17, 18, 20, 21, 22, 26, 27, 28, and 29 under 35 U.S.C. § 103(a) based upon Guo, et al. in combination with Sornasse, et al., the Examiner stated that "DC hybridomas retaining T cell activation capability were produced as early as 1981, see, for example, the work of J.H. Peters)" (Final Office Action of September 8, 2005, page 4, lines 8-11).

Peters (1980) and Peters (1981) (Attachments F and G) were not previously submitted in the present application. However, these two references were cited in related application 09/951,849, which is the subject of a separate Appeal, and have now been mentioned by the Examiner in the Final Office Action of the present application.

In order to be responsive to the Examiner's comment and as Peters (1980 & 1981) are of record in the related application 09/951,849, Appellants now submit an Information Disclosure Statement under 37 C.F.R. § 1.97(c), that is, without a statement under 37 C.F.R. § 1.97(e) and request that Peters (1980) and Peters (1981) (Attachments F and G) be made of record. Appellants regret that the references were not previously listed on an Information Disclosure Statement but, note that the Examiner is already familiar with these references from the related Application 09/951,849 for which he is also the Examiner and as indicated by his statement in the Final Office Action, referring to Peters. As discussed above, it was this comment which prompted incorporation of Attachments D, F and G into the Appeal Brief. Appellants respectfully request that these references be made of record in the present application.

Section 3 on pages 16-17 of the Appeal Brief are responsive to the Examiner's comments on the two Peters abstracts. Regarding Attachment D, this attachment is a copy of a Declaration by Dr. Moser, one of the inventors of the present application, that was submitted in related application 09/951,849. This Declaration {Attachment D} was included because of its discussion of the Peters (1980) and Peters (1981) references. It is noted that the Examiner is also familiar

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with this paper from his examination of 09/951,849, the subject of a separate appeal. Appellants' respectfully request that Attachment D be made of record in the present application in order to provide statements from one of the Inventors addressing the Examiner's assertion that DC hybridomas were known at the time of the claimed invention.


In summary, Appellants respectfully request that Attachments D, F and G be made of record in this Appeal. An amended Appeal Brief is submitted herewith in which the Evidence Appendix has been amended. An Information Disclosure Statement under 37 C.F.R. § 1.97(c) is also submitted.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct. 25, 2006

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